

REMARKS/ARGUMENTS

Claims 1 - 53 are pending in the present application. Claims 1, 3, 8, 10, 14, 16, 17 and 19 were amended; claims 13, 15 and 18 were canceled and claims 21 – 53 were added. Reconsideration of the claims is respectfully requested.

The specification has been amended to correct minor typographical errors. No new matter was added.

Any and all amendments to the present claims were made solely to facilitate expeditious prosecution of subject matter that overcomes the cited prior art as indicated by the Examiner in the recent telephonic interview. Applicant respectfully reserves the right to pursue claims as originally presented, including the subject matter encompassed by all canceled claims, or as presented prior to this response, as additional claims in one or more continuing applications.

I. Claims Objections

The Examiner has objected to claims 1, 3, 8, 10, and 17 - 19 for various informalities which have been corrected in accordance with the Examiners suggestions.

II. 35 U.S.C. § 102, Anticipation

The Examiner has rejected claims [1 – 13 and 19 – 20 under 35 U.S.C. § 102 as being anticipated by Zustak *et al.* It is respectfully asserted that this rejection is moot in view of the present amendments to the claims.

With regard to the cited prior art, the teachings of Zustak *et al.* generally relate to a commercially provided interactive television in which members of a class of subscribers are able to provide content for one or more television channels (see generally the Abstract and paragraphs 3 – 6 and 15 – 23). Thus, those of ordinary skill in the art at the time the invention was made would utilize teachings of Zustak *et al.* in a manner consistent with subscribers and providers of an interactive television service. In a general discussion of surveillance techniques, Zustak *et al.* state:

Site 302 might represent a vacation home with one or more surveillance cameras represented by camera 332 that periodically uploads images of the property to the service provider 10. In other scenarios, the programming can be set up to provide surveillance on an elderly or shut-in relative, a child with live-in care, etc. (paragraph 42)

Nowhere does Zustak *et al.* teach using a motion detector in conjunction with a video sensor, nor does Zustak *et al.* teach saving certain image frames to a local memory based on a motion indication issued by the motion detector. The claims have been amended accordingly and overcome the cited prior art. Therefore, it is respectfully asserted that independent claims **1, 19** and **41** are in condition for allowance.

III. 35 U.S.C. § 103, Obviousness

The Examiner has rejected claims **14 – 18** under 35 U.S.C. § 103 as being unpatentable over Zustak *et al.* in combination with the Examiner's Official Notice to the concept and advantage of utilizing a motion detector in a video surveillance network as being well known. Thus, apparently in the opinion of the Examiner, combining a motion detector with a video surveillance network is a minor improvement to the network that would appear to be *per se* unpatentable.

Applicant respectfully reminds the Examiner that regardless of whether the combination of a motion detector in a video surveillance network is a minor improvement, the changes must be evaluated based on the whole invention.

In a proper obviousness determination, regardless of whether the changes from the prior art are "minor," the changes must be evaluated in terms of the whole invention, including whether the prior art provides any teaching or suggestion to one of ordinary skill in the art to make the changes that would produce the claimed invention. *In re Chu*, 66 F.3d 292, 298, 36 U.S.P.Q.2d 1089, 1094 (Fed. Cir. 1995).

As such, claim **1** has been amended to include the video sensor and motion detector limitations of claim **13** and **18** as reproduced below.

A device for implementing video surveillance on an existing coaxial network, wherein the existing coaxial network supports data transmitted

over a first carrier signal, a second carrier signal and a plurality of other carrier signals, the device comprising:

- a data port for connecting to the existing coaxial network;
- a modulator for modulating first digital signals onto the first carrier signal, wherein at least some of said first digital signals representing sensory electrical signals, said modulator electrically coupled to the data port;
- a demodulator for demodulating second digital signals off the second carrier signal, said demodulator electrically coupled to the data port;
- a memory for storing sensory electrical signals as data;
- a video sensor for capturing image frames of a surveillance area and for converting said image frames to video sensory electrical signals;
- a motion detector for detecting motion in at least a portion of the surveillance area and issuing a motion indication; and
- video processor for receiving the video sensory electrical signals representative of the image frames and determining which image frames to save in the memory based on receiving a motion indication.

Nowhere do Zustak *et al.* teach or suggest using a motion indication output from a motion detector to determine which image frames to store in a local memory of a surveillance device. Independent claims 19 and 41 have similar feature limitations.

As Zustak *et al.* does not teach or suggest using a motion detector in conjunction with a video sensor, and there is no suggestion for saving certain image frames to a local memory based on a motion indication issued by the motion detector, it is respectfully asserted that the present claims overcome the cited prior art and the Official Notice taken by the Examiner. It is, therefore, respectfully asserted that independent claims 1, 19 and 41 are in condition for allowance.

IV. Conclusion

It is respectfully urged that the subject application is patentable over the combination of Zustak, et al. and the Official Notice taken by the Examiner, and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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